

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules (Television Channels 60-69)	)	WT Docket No. 99-168
	)	
	)	
Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)	)	GN Docket No. 01-74
	)	
	)	
Auction of Licenses in the 747-762 and 777-792 MHz Bands Scheduled for June 19, 2002	)	DA 02-260 Report No. AUC 02-31-A (Auction No. 31)
	)	
Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002	)	DA 02-563 Report No. AUC 02-44-B (Auction No. 44)

To: The Commission

**COMMENTS IN SUPPORT OF APPLICATION FOR REVIEW**

Cook Inlet Region, Inc. ("Cook Inlet"),<sup>1</sup> supports the Application for Review (the "*Application*") filed by the Cellular Telecommunications & Internet Association on April 24, 2002, seeking the postponement of Auction Nos. 31 and 44 (together the "Auctions"). Cook Inlet urges the Commission to consider the potential detrimental impact of a decision to proceed with these auctions, given the uncertainty at this time about the status and utility of the spectrum in the 700 MHz band.

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<sup>1</sup> Cook Inlet is an Alaska Native Regional Corporation organized under the Alaska Native Claims Settlement Act. See 43 U.S.C. §§ 1601 *et seq.*

Cook Inlet, a participant in the Commission's past auctions for personal communications services spectrum, is concerned about the ability of winning bidders in the Auctions to deploy services in a timely and efficient manner using spectrum in the 700 MHz band. Today this spectrum remains substantially occupied by existing broadcast licensees who have the right to remain in the spectrum for several more years. Before the Commission conducts the Auctions and grants new licenses in the 700 MHz band, the Commission should first take the necessary steps to develop clear, effective, fair and timely policies and procedures to relocate or otherwise accommodate incumbent broadcast licensees who currently use this spectrum. As the Commission has noted in other contexts, definitive spectrum usage rights must be clearly identified to promote investment in new services.<sup>2</sup> Accordingly, the Wireless Bureau's decision to proceed with the Auctions, despite the fact that policies and procedures have not been established with respect to incumbent users, will actually impede the development of existing spectrum-based services and the deployment of new technologies in the 700 MHz band.

The Commission has held that incumbent broadcast licensees are not required to transition out of the 700 MHz band until the end of 2006. Even then, the Commission could extend the deadline for the transition on a market-by-market basis, depending on the level of digital broadcast television penetration in those markets. By proceeding with the Auctions despite this uncertainty, the Commission will place unreasonable demands on potential bidders and their ability to predict the future utility of the 700 MHz band. The uncertainty surrounding the transition period for the 700 MHz band creates an additional level of risk for the potential

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<sup>2</sup> See, e.g., *Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, FCC 00-401, *Policy Statement*, ¶ 20 (rel. Dec. 1, 2000).

participants in the Auctions; bidders will be unable to accurately account for this risk as they attempt to develop viable business plans to use and determine the extent of their resources they are willing to commit to bidding for this spectrum. Yet the success of the Auctions and the resulting service deployments depend on the ability of participants to make these very determinations in the face of this risk and uncertainty.<sup>3</sup>

Absent the ability to predict reliably when the licenses for which they may bid will become available for the deployment of their own services, participants in the Auctions may take into account the possible cost of incentivizing incumbent broadcasters to relocate in calculating the amounts they are willing to bid for licenses in the 700 MHz band. The net effect will be a reduction in the amount of money these bidders would be willing to pay in the Auctions for licenses in the 700 MHz band. A portion of the value of these licenses thus would be paid not to the federal government as auction revenues but to the incumbent broadcasters in exchange for relocation commitments.

By contrast, delaying the Auctions at this time is unlikely to have any significant impact on the timing of the deployment of new and additional commercial services in the 700 MHz band. The Commission itself has recognized the difficulties faced by new spectrum-based service providers in the 700 MHz band, particularly in the lower band, noting that “[t]he degree of incumbency in the Lower 700 MHz Band . . . is likely to make it far more difficult for new services to operate in this band, particularly in major metropolitan markets, prior to the end of

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<sup>3</sup> Additional uncertainty is created by proposals for different allocations of the spectrum to be licensed in the Auctions, including, for example, the recent proposals to set aside additional spectrum in the 700 MHz band for public safety users.

the transition.”<sup>4</sup> Until the transition to accommodate incumbent broadcast licensees has been carefully planned and is sufficiently predictable, it will be difficult for new licensees to efficiently deploy their own services using this spectrum. Thus, the date of the Auctions will have little to do with the timing of the deployment of new services by winning bidders because it is the ability to accommodate the needs of incumbent broadcast licensees that will be critical in determining when and how new and additional services are deployed in the 700 MHz band. Therefore, the Commission should focus on and attempt to resolve the transition issues before conducting the Auctions.

Respectfully submitted,

**COOK INLET REGION, INC.**

A handwritten signature in purple ink, reading "Rachel C. Welch", is written over a horizontal line.

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<sup>4</sup> *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, GN Docket No. 01-74, *Report and Order*, FCC 01-364 (rel. Jan. 18, 2002).

**CERTIFICATE OF SERVICE**

I, Rachel C. Welch, hereby certify that on this 3rd day of May 2002, I served copies of the foregoing Comments In Support of Application for Review, via regular mail upon the following:

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